

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON**

MATTHEW STUART WADE,

Plaintiff,

v.

Case No. 2:14-cv-25164

HUTTONSVILLE CORRECTIONAL CENTER,

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

Pending before the court is the plaintiff's Letter-Form Complaint (ECF No. 1), filed on August 26, 2014. The plaintiff has neither paid the applicable \$400 filing fee, nor filed an Application to Proceed Without Prepayment of Fees and Cost, despite being mailed the appropriate forms by the Clerk on August 28, 2014, with instructions to complete and return the forms within 10 days. This matter is assigned to the Honorable Thomas E. Johnston, United States District Judge, and it is referred to the undersigned United States Magistrate Judge for pre-trial proceedings and the submission of proposed findings and a recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

The plaintiff's Letter-Form Complaint concerns his conditions of confinement at the Huttonsville Correctional Center ("HCC"), where he is presently incarcerated. HCC is located within the jurisdiction of the United States District Court for the Northern District of West Virginia. Section 1406(a) of Title 28 of the United States Code provides as follows:

The district court of a district in which is filed a case laying in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

28 U.S.C. § 1406(a).

The undersigned proposes that the presiding District Judge **FIND** that, pursuant to the section 1406(a), it is in the interest of justice that this matter be transferred to the United States District Court for the Northern District of West Virginia, which is the district in which this matter could have been brought. Accordingly, it is respectfully **RECOMMENDED** that the presiding District Judge order that this matter be transferred to the United States District Court for the Northern District of West Virginia, Elkins Division, P.O. Box 1518, Elkins, WV 26241, for additional proceedings.

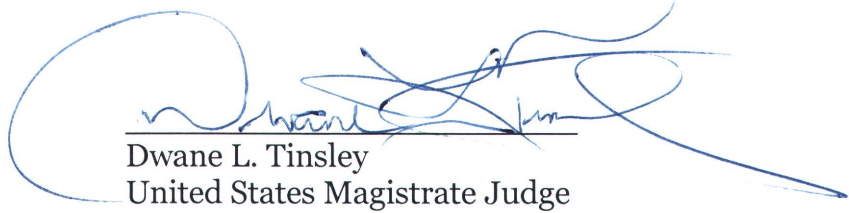
The plaintiff is notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the Honorable Thomas E. Johnston, United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(d) and 72(b), Federal Rules of Civil Procedure, the plaintiff shall have fourteen days (filing of objections) and three days (mailing) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted by the presiding District Judge for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989); *Thomas v. Arn*, 474

U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Copies of such objections shall be provided to Judge Johnston.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to the plaintiff.

September 30, 2014



Dwane L. Tinsley
United States Magistrate Judge